

ORIGINAL
JOHNSON UTILITIES L.L.

5230 East Shea Boulevard * Scottsdale, Arizona
PH: (480) 998-3300; FAX: (480) 483-7908



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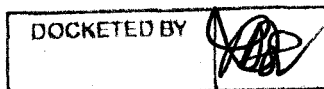
November 19, 2010

Arizona Corporation Commission

DOCKETED

NOV 19 2010

Ernest Johnson
Executive Director
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007



RE: Johnson Utilities Company, H2O, Diversified Water Utilities,
Queen Creek Water Company: Compliance with Decision No. 65840
Notice of Violation from ADEQ dated October 19, 2010
WS-02987A-99-0583; WS-02987A-00-0618; W-02234A-00-0371; W-02859A-
00-0774; W-01395A-00-0784

Dear Mr. Johnson:

On October 26, 2010, we filed a Notice of Violation ("NOV") from the Arizona Department of Environmental Quality ("ADEQ") dated October 19, 2010, along with an initial response. Johnson Utilities followed up with a subsequent response to ADEQ on November 17, 2010 and a copy of it is attached hereto as Attachment 1. Our position, as indicated in our response, remains that no violations took place.

Should you have any questions or would like any additional information prior to our meeting, please do not hesitate to contact me. Thank you for your time and consideration on this matter.

RECEIVED

2010 NOV 19 P

AZ CORP COMMISSION
DOCKET CONTROL

Sincerely,

Brian P. Tompsett
Johnson Utilities, LLC

Cc: Docket Control
Steven Olea, Director
Brian Bozzo, Compliance Manager

Attachment 1

JOHNSON UTILITIES L.L.C

5230 East Shea Boulevard * Scottsdale, Arizona 85254

PH: (480) 998-3300; FAX: (480) 483-7908

November 17, 2010

Daniel L. Czecholinski, Manager
Water Quality Compliance Assurance Unit, MC 5415B-1
Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, AZ 85007

RE: Pecan Wastewater Reclamation Plant
Notice of Violation, Case ID 120285
Dated: October 19, 2010

Dear Mr. Czecholinski:

On October 22, 2010, we received your October 19, 2010, Notice of Violation (NOV), Case ID 120285. In accordance with Section III, Documenting Compliance, we are submitting the following in response to the five items. Our responses are in the same numerical order as your letter.

1. *Within 5 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or written notification of closure of AZPDES Outfall Subsurface Recharge Facility as a discharging facility under APP P-105324.*

Response: On October 25, 2010, we emailed you and copied Cynthia S. Campbell a letter serving as the response to this item. We received the NOV on October 22, 2010. A copy of our letter is attached for your reference. As you will also recall we met with you and Cynthia S. Campbell on October 27, 2010 where we stated that the issuance of this NOV is clearly, in our minds, an arbitrary and capricious effort to harass the Company.

2. *Within 95 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a Closure Plan of the AZPDES Outfall and Subsurface Recharge Facility as a discharging facility under APP P-105324.*

Response: The violation never occurred as we are in full compliance with the Stipulated Judgment—i.e., we immediately disconnected, permanently removed and capped the piping between the treatment facility and the AZPDES recharge facility. We have also continued to monitor and report in accordance with our AZPDES and APP permits. We have continuously reported to ADEQ that there has been no discharge to the AZPDES recharge facility. We are not in violation of our AZPDES or APP permits.

In addition, we submitted written notification to ADEQ on the temporary cessation of the facility on September 8, 2010. Included with the notification was the proposed Maintenance Plan for ADEQ's review and approval.

3. *Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a copy of the vadose zone recharge well completion report required by APP P105324, Section 3.0 this report was not submitted with either the December 5, 2008, or the April 14, 2010, submittals. The report must provide as-built construction diagrams for the vadose zone recharge wells. Each diagram must be sealed by an Arizona registered geologist or other qualified registrant. The report must also provide infiltration testing/capacity data for the vadose zone recharge wells. ADEQ requires a demonstration of sufficient recharge and capacity and infiltration rates for facility discharges. In the case of the Johnson Utilities Pecan WWTP, the placement, infiltration rates, and construction of the recharge wells must be demonstrated in order to demonstrate adequate disposal capacity for permitted flows of effluent.*

Response: The violation never occurred as we submitted to ADEQ a vadose zone recharge well completion report on December 5, 2008. The report included all the required documentation except the well driller's logs as stated in the APP's compliance schedule. We submitted the map showing the location of the wells installed, the latitudes and longitudes for each well, the results of the testing, and the report indicated that no additional wells were required at that time. We have responded to the absence of the well driller's logs in our previous correspondence with ADEQ since December 5, 2008. In our August 18, 2010, letter we stated "In lieu of driller logs, we provide the following information on the geological log of the well. From the well driller reports for the two onsite wells, the top layer is clay from 0 – 10 feet below land surface (ft bls) and the layer in which the vadose zone wells were completed consists of sand, gravel, and clay from 10 to 60 ft bls."

Two years after we submitted the December 5, 2008, well installation report, ADEQ is now requesting as-built drawings stamped and signed by a registered geologist or other qualified registrant. This is and was not required in the compliance schedule.

As stated above, our December 5, 2008, report did provide as-built testing results of the constructed wells. No detailed direction on the number of wells or procedure for testing were provided by ADEQ. Our test results did show that the wells have a calculated recharge capacity of 4.4 MGD.

4. *Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a complete and accurate response to ADEQ's letter dated September 28, 2010, entitled Inadequate Response to Comprehensive Request for Additional Information.*

Response: This violation never occurred as the APP P-105324 never authorized the installation of 100 HP Flygt lift station pumps. By letter dated August 12, 2009, we notified ADEQ that the 100 HP pumps were replaced with more efficient Flygt 85 HP. We also provided the pump curve that shows the new pumps are capable of pumping a minimum of 2,250 gpm.

Per ADEQ's September 28, 2010, letter, entitled Inadequate Response to Comprehensive Request for Additional Information, we have 90 days to submit the requested information or ADEQ may proceed to a final decision without further notice. We received the letter on October 1, 2010, so our reply will be submitted prior to January 1, 2011.

5. *Within 90 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an aquifer protection permit amendment application that demonstrates the disposal capacity for the Pecan Water Reclamation Facility after the closure of the AZPDES Outfall and Subsurface Recharge Facility, and a proposal for disposal of effluent in the pecan groves.*

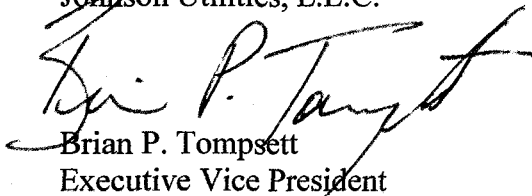
Response: This violation never occurred, as we do have an APP that allows recharge via vadose zone wells. We were also issued a Type 2 Reclaimed Water General Permit – Class A+, R105491, for the irrigation of the Pecan groves.

As stated above, we have demonstrated disposal capacity in our December 5, 2008, letter in which we showed that the vadose zone wells, located in the Pecan groves, can recharge up to 4.4 MGD.

In Item I.5 ADEQ states that "Johnson Utilities has disposed of effluent in the pecan groves at rates which constitute disposal rather than reuse as evidenced by the number of dead pecan trees in the groves." The death of the pecan trees is a result of an infestation of wood boring insects. All the dead trees show the same signs of infestation as shown on the attached photographs. We are extremely concerned and troubled that it appears ADEQ has issued this NOV based on false assumptions and miss information. The simple fact that many of the allegations in the NOV have already been answered prior to the issuance of the NOV speaks for itself.

If you have any questions or comments, please contact me a (480) 998-3300.

Sincerely,
Johnson Utilities, L.L.C.



Brian P. Tompsett
Executive Vice President

Enclosures: JU letter to ADEQ dated October 25, 2010
Pictures of Pecan tree insect infestation

Cc: Cynthia S. Campbell, ADEQ
Greg Brown, Johnson Utilities

JOHNSON UTILITIES L.L.C

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October 25, 2010

Daniel L. Czecholinski, Manager
Water Quality Compliance Assurance Unit, MC 5415B-1
Arizona Department of Environmental Quality
1110 W. Washington Street
Phoenix, AZ 85007

RE: Pecan Wastewater Reclamation Plant
Notice of Violation, Case ID 120285

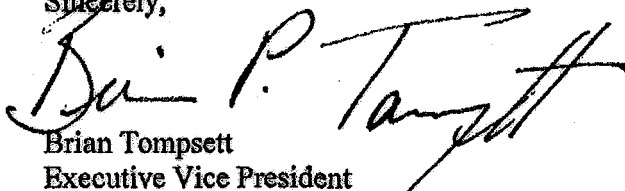
Dear Mr. Czecholinski:

On October 22, 2010, we received your October 19, 2010, Notice of Violation (NOV), Case ID 120285. In accordance with Section VI, we are requesting a meeting to discuss the NOV as soon as possible.

This letter also serves as the response to Item III(1) which is required within five (5) calendar days of receipt of the NOV, Case ID120285. None of the alleged violations ever occurred as it was not our intent to close the facility until all of our legal options have been exhausted. Since we have not reversed the stipulation, we submitted written notification to ADEQ on the temporary cessation of the facility on September 8, 2010, as you noted in the NOV. Included with the notification was the proposed Maintenance Plan for the temporary cessation.

If you have any questions or comments, please contact me a 480 998-3300.

Sincerely,



Brian Tompsett
Executive Vice President

Cc: Cynthia S. Campbell, ADEQ
Greg Brown, Johnson Utilities



11/11/2010

